

REBELS CAPTURE SHANGHAI

ARMED GUARD JOINS THEM—
YUEN SHIH KAI BECOMES PREMIER

Yuan Shih Kai Declines to Become Premier—Emperor Swears to Publish China's Magna Charta on Yellow Paper—Roths Throne of All Power.

Special Cable Despatch to THE SUN.

SHANGHAI, Nov. 3.—The success of the revolution here is complete. The nation has fallen into their hands like a ripe plum. When the revolution was declared there was no resistance except a few shots from the arsenal. The majority of the guard there immediately joined the rebels, and they as well as the native police seized the white badges of the revolutionists.

The Taotai, or Governor, remained loyal and fled to the foreign settlement, after which the yamen of the Viceroy was turned by the victors. Some of the neighboring buildings caught fire, but the fire was promptly checked by the revolutionists. Two Norwegian steamers loaded with ammunition for the Chinese were captured and escaped.

The rebel leaders have issued proclamations appealing for order and despatching letters to the consuls in the foreign settlements asking them to strengthen their guard to make assurance that there would be no disorder. Volunteer guards have since been called out but all is quiet. It is expected that the Woo Sung forts will speedily join the rebels.

The revolutionary outbreak at Nanking has been quelled.

The foreigners at Chang-sha have taken refuge on an island and are setting up defensive works.

It is believed that it is the intention of the Wu-chang rebels to evacuate Hankow and concentrate their forces at Wu-chang.

The prospects of peace are improving. It is believed that a truce will be proposed by Yuan Shih Kai and that it will be accepted by the rebel commander in chief.

Peking, Nov. 3.—Yuan Shih Kai has telegraphed to Peking declining the throne's appointment of himself as Premier of China. Conjecture is busy as to whether his act is due to the Chinese custom of making mock refusals of high honors or to his preference to await the election of a Premier by Parliament under the Constitution or to a genuine determination not to accept. If he accepted now he would be saddled with a huge and thankless responsibility and might not after all be chosen by the Parliament when it is elected.

Reports continue of severe fighting in the streets of Hankow, rival sources of information accusing its opponents of outrages. The situation is not clear.

Li Yang Heng warned the consuls today that the forces of Wu-chang would be bombarded by the imperial batteries behind the British and Russian concessions unless they moved. The consuls thereupon asked the imperial General to move and he promised to do so. The result is not reported.

Yuan Shih Kai and Yin Chang, the deposed War Minister, met with great ceremony at Sin Yan Chang yesterday and had a long conference. The imperials are reported to resent the recall of Yin Chang, and the effect of Yuan Shih Kai's arrival at the front is eagerly awaited.

The trouble at Tai-yuan-fu seems to have subsided. Foreigners are safe and the railway is nearly repaired.

The Throne in further proof of its docility in accepting unhesitatingly the conditions imposed by the National Assembly has promptly issued an edict in which it recognizes the importance of the thirteen principles of the monarchial constitution submitted by the National Assembly. They are accepted, and when the Assembly drafts the Constitution it will be based upon those principles. We shall arrange to-day to swear before the temple of our ancestors to issue them to the whole empire on yellow paper.

The first of the thirteen principles declares that the T'ang-dynasty shall reign forever. The second is that the Emperor's person is to be inviolable, the most important of the other seven, have already been called as the demands of the Assembly and the Lan-chow army. They are the declarations laying down the powers of the Parliament, making the Cabinet responsible to it and the division of powers between the monarch and the Parliament, which is deprived of the power of altering the Constitution.

There is provision for Imperial decrees to replace the law in cases of emergency, but under strict limitations. International treaties are not to be made without the consent of Parliament, but the Emperor may declare war or make peace if Parliament is not sitting, the approval or disapproval being subsequently obtained. Parliament is to fix the Imperial expenses.

The edict sanctioning the new regulations is fully described in English here as China's Magna Charta, but it goes much further than the famous document whereunto the name was originally connected.

The new constitution, based on these regulations, will give the people, through an elected parliament, a greater share in their government than does even that of Great Britain. The nominal power of the British sovereign in vetoing bills and appointing a premier is not conceded to the Emperor. The throne's right to appoint a successor is also forfeited, the succession being constitutionally arranged. Moreover the members of the upper house of the parliament are to be directly elected by the people, the reformers having no idea of admitting the establishment of a hereditary or privileged house of peers.

Of course the Parliament is to have control of the administration of the finances, and the Ministry is to be chosen by and responsible to it. Pending the establishment of the new Parliament the National Assembly will act in its place.

It is to be remarked that American education played an important role in the drafting of the great edict which is to be known as China's Magna Charta. The work was done by Dr. Chen Chin Tao, a Yale graduate, and Dr. T. Y. Chang of the University of California.

London, Nov. 3.—News from Hankow

LAWYER DISBARRED UNJUSTLY

BENJAMIN OPPENHEIM GETS A REVERSAL AFTER 11 YEARS.

Vouchers Used in Case Against Jerome Show That Metropolitan Railroad Paid for Testimony Against Him Perjury Found—Rehearing Granted.

Benjamin Oppenheim, a lawyer who was disbarred eleven years ago in a proceeding brought by the Metropolitan Street Railway in which he was accused of obtaining a \$5,000 judgment against the company by fraud, will have a trial under a ruling by the Appellate Division of the Supreme Court yesterday. The court concludes that the witnesses against Oppenheim were in the pay of the railroad company at that time.

A coincidence in Oppenheim's long fight for reinstatement lay in the fact that in a trunkful of Metropolitan Street Railway vouchers used in the proceedings to have District Attorney Jerome removed for failure to prosecute the Metropolitan officers for fraud was found the evidence to prove Oppenheim's contention that the witnesses against him were actually paid by the railroad company.

The Appellate Division not only sends the whole disbarment proceeding to the official referee, ex-Justice Gildersleeve, for a hearing on all the points involved, but permits Oppenheim to move in the Supreme Court to have the \$5,000 judgment restored, which will involve a rehearing of that case also.

On May 5, 1896, a suit was brought against the Metropolitan in behalf of Hannah Nugent, then 3½ years old, for damages because she was run over by a horse car on Madison street. One of her legs was so crushed that it had to be amputated, and when she sued for damages Oppenheim was her attorney. The case was tried before the late Justice Barnard in 1897, and resulted in a verdict for \$5,000. On the trial no question was made as to the extent of the girl's injuries, the sole controversy being as to the railroad's negligence. It was contended that the child had left the curb to cross the street when the car was some distance away, so that the driver had been attentive could have avoided the accident. It was asserted that he was looking over his shoulder at a white woman standing in the doorway of a Chinese laundry. When the case was appealed to the Appellate Division the judgment was affirmed.

Before the Court of Appeals had acted the railroad company moved for the vacation of the judgment and a new trial on the ground that the plaintiff's witnesses had been guilty of perjury and that the verdict had been obtained as the result of a conspiracy between Oppenheim, the attorney, and his witnesses, and that a fraud on the court had been committed.

The case was referred to Wilber McBride, a lawyer of high standing, as referee. Mr. McBride reported that the charges of fraud and conspiracy had been established and advised that the judgment be vacated. The judge who heard the case in the Supreme Court refused to confirm his report, but the Appellate Division reversed the lower court and vacated it. The Metropolitan thereupon moved to disbar Oppenheim, and this proceeding was referred to Hamilton Odell, who reported that the charges had been sustained.

Justice Scott, writing the unanimous opinion of the Appellate Division, says it appears that when Oppenheim was retained in the case under a 50 per cent. contingent fee and was in search of witnesses he came across a young Italian barber named Porcia, whom he employed to seek out witnesses. He found two girls, who testified at the trial that they had seen the accident and gave testimony which sustained the plaintiff's theory of the case.

After the Appellate Division had affirmed the \$5,000 judgment against the railroad Louis E. Julian, the investigator who later turned against the company and was active in the proceedings against Oppenheim, was employed by Porcia in behalf of the railroad company and with his aid got in touch with two of the witnesses, Mammie Langstaff and Sadie McDonald, as well as Emma Langstaff, the mother of Mammie, and one Samuel Strom. These persons all made affidavits in support of the motion to vacate the judgment to the effect that Mammie and Sadie had not seen the accident at all and had no informed Oppenheim, but that under his urging and inducement they had agreed to tell the stories which they told on the stand, in which they said they had been coached carefully by Oppenheim. Strom testified that Oppenheim had tried unsuccessfully to induce him to testify falsely upon the trial.

Before the referee these witnesses reiterated and amplified the statements in their affidavits, and all then except Porcia swore that they had received compensation from the railroad company. Porcia said he got a small amount, not exceeding \$40, for services in other cases, but nothing in this case.

Justice Scott says that in connection with Referee McBride's report in favor of the railroad company it is alleged that he was continuously drunk during the pending of the hearing, which he and other witnesses for him denied. It was also alleged and not denied, that the railroad company paid McBride \$2,500 for his report, which Justice Scott says, was a "fee out of all proportion to his services."

Substantially the same evidence was used before Referee McBride for a new trial was used before Referee Odell in the disbarment proceeding.

In his opinion Justice Scott says: "It is quite evident from a reading of the opinions in this court that the basis for granting the new trial and for disbarbing Oppenheim was the belief that Oppenheim had conspired with the witnesses Langstaff and McDonald and had induced them to commit perjury upon the trial. The sole foundation for this belief was the evidence given by these witnesses and the others above named before the two referees to whom were referred the motion for a new trial and the application for disbarment. If it appeared that all those witnesses were then in the pay of the railroad company it is certainly very doubtful whether this

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SHIPMAN ADMITS HAZING

J. C. Arnold Confesses That He Made a Show of a Pledge for Two Girls.

ANAPOLIS, Md., Nov. 3.—Because Joseph C. Arnold, a Pennsylvania midshipman of the third class, came forward when no suspicion was directed toward him and admitted his connection with the incident on Sunday, October 22, when Alexander, a fourth class man, was hauled in the presence of two young women he has received punishment just short of dismissal, but has probably saved from dismissal one or more upper classmen.

The members of the classes above him, particularly the second class, two of whose members were objects of suspicion, are particularly grateful and will endeavor to show their feeling by helping Arnold in every way to avoid getting any further demerits as, with those inflicted upon him, he is very near the margin.

Arnold will receive one hundred demerits and will be confined to the limits of the academy until the end of the school year, with the deprivation of all privileges. This means, among many other things, that he will not see the annual shipman's ball given in Philadelphia on November 25, a severe punishment in itself. As a midshipman who receives more than 150 demerits in a term must leave the institution, and Arnold already had some, he must move very carefully until the first of next February, when the first term ends. In this he will be helped in every way by the upper classmen.

The authorities have no information as to any other midshipmen connected with the affair and the facts as deduced by the board of investigation differ considerably from those given by midshipmen and others at the time of the occurrence.

FOUR HOUSES UNDERMINED

Residents of Big Tenements Routed Out of Bed—Subway Ditch Flooded.

Water leaking from a main in the neighborhood began to ooze up to the surface excavation in Fourth avenue, Brooklyn, just after midnight last night, and within an hour after its discovery had risen to a height of six feet in the excavation. After an examination by the police of the Fourth avenue station of the tenement houses lining the street the foundations of four six story double houses 90, 92, 94 and 96 were declared undermined. The police closed all the inhabitants of the houses into the street, only giving them time to put on street clothes.

The subway at this point has not yet been lined with concrete, but the digging has gone down about thirty feet. The laborers are still digging and there is really nothing but a hole in the ground. The watchman who looks after the tools left by the workmen from thirty-seven to thirty-eight o'clock, noticed shortly after midnight the growing amount of mud in the bottom of the excavation and he investigated. When he couldn't find the reason for the increasing amount of water and the pool in the bottom had reached three feet he notified the police.

The police discovered that the cellars of the tenements were beginning to crack and they feared that if the water under the subway continued to increase the buildings would fall.

NEW KNABE MYSTERY

Keys Taken When Other Key Was Returned—Stab Wounder to Light.

INDIANAPOLIS, Ind., Nov. 3.—The finding of the key to the door of Dr. Knabe's flat on a chiffonier where the detectives had searched for it several times and the fact that it was placed there Wednesday night or early Thursday morning have mystified the detectives and they are going to call Miss Augusta Knabe for further examination.

It developed to-day that a bunch of keys which a coroner's urban placed in the hands of the doctor's maid, appeared at about the time the key to the flat was left in the room, showing conclusively that some one was in the flat after all of Dr. Knabe's effects had been placed in the hands of the administrator of his estate.

The detectives regard the return of the key as one of the most important incidents. They say they were about to get it for the person having it could have thrown it away or hidden it and no one would have been the wiser, but to enter the flat and put the key on the chiffonier showed some purpose, and they want to get at this purpose.

Another thing noted by the detectives and Coroner, but of which they made no mention, was a deep cut on the back of the left forearm. The wound was about three-quarters of an inch deep and an inch long. It appeared to have been a stab wound.

Detectives, Coroner and physicians who saw the wound agreed that there was no blood on its edges and that there was no blood on the dead woman's hands. This, detectives say, would tend to show that the woman was not a suicide and had washed the hands and the arm.

PULLED THROUGH FLAMES

Andrew Ebert of Sheephead Bay Rescued by Firemen at His Home.

Andrew Ebert, 50 years old, the brother of Charles N. Ebert, at one time a familiar figure at the racetracks, was badly burned after the face and hands in a fire at the Sheephead Bay last night.

Mr. Ebert had been ill for several weeks, and was asleep in the basement when the fire broke out. He was pulled through the flames by a fireman, and was taken to the hospital.

FIRE CAPTAIN HAGEN KILLED

GOES DOWN WITH ROOF AFTER SAVING HIS MEN.

Was Fighting a Brooklyn Blaze From the Top of a Building When He Saw It Weaken. Got All His Helpers Off in Time—Neck Was Broken by His Fall.

Capt. James Hagen, who has fought fires for ten years and who has been recommended frequently for gallantry, fell to his death last night when the roof of a burning building at 62 Water street, Brooklyn, tumbled in. Hagen had waited until all his men were off the roof, as he gave signs of weakening, but waited himself a moment too long. He was to have celebrated the third anniversary of his marriage next week.

The fire was discovered by James Doherty, a watchman employed by the City Marshal, who because of pending litigation had charge of the four story factory building occupied by the Veneer Barrel Company on Water street. Doherty found that a stove had to warm himself on the ground floor had fallen over against a wooden partition. By the time that he had sent in the alarm the whole ground floor was in flames. The inflammable matter in the factory was the finest sort of food for the flames and in a few minutes fumes were hanging out of the windows of cars on the Brooklyn Bridge to watch the scene.

Capt. Hagen with Engine Company 107, of which he is in charge, got to the fire at the same time that Engine 106 was clattering up. The firemen saw that the fire would have to be fought from the roof. The men of Engine 106 began pouring a stream in the top floor windows from the street, while Hagen led his men up to the roof of a factory next door and supervised the fighting from there. In a short time the fire was sufficiently under control to warrant Hagen's leading his men over to the barrel factory roof. They had been on the roof only a few moments when it began to sag. Hagen saw what was coming.

"Get out of this!" he yelled to his men. Then while the men ran to the edge of the roof and dropped down on the neighboring building the captain stood by urging the last to hurry. The roof crumpled and with it fell the captain. They had to keep on fighting the fire before they could get to Hagen, and it was not until the fire was extinguished that the men could make their way to where he lay beneath twisted beams and scorched supports.

Ambulance Surgeon Brodhurst of the Cumberland Street Hospital was called, but all he could do was to assure the men that their captain had died instantly. His neck had been broken.

Capt. Hagen lived with his wife, Ruth, and their sixteen-month-old daughter, Ruth, at 1273 Park place, Brooklyn. Four years ago he was made an assistant fireman and later a supervising engineer on the fireboat David A. Boddy. He had been a captain only eight months. He was 34 years old.

PAY OFFICERS SENTENCED

Prison Terms for Men Responsible for Navy Yard Shortage.

WASHINGTON, Nov. 3.—A series of drastic punishments has been imposed upon the pay officers on duty at the Mare Island Navy Yard, where a shortage of several thousand dollars was found last week.

Paymaster Arthur M. Pippin, who was on duty on board the receiving ship Independence, was found guilty of embezzlement and fraud and sentenced to a term of seven years and to be imprisoned for a period of seven years. Pay Clerk James V. Fuller, who was convicted of fraud and scandalous conduct, was dismissed and sentenced to serve two years in the Federal Reformatory for Men at Leavenworth, Kan. He will serve three years, at the expiration of which he will be dishonorably discharged from the service. Pay Clerk Rowland M. Thompson has been publicly reprimanded and will lose one-half of his shore duty pay for a period of about five months, which will amount to about \$416.

The shakeup is the result of a court-martial in connection with a shortage in the funds of the receiving ship Independence. Paymaster Pippin is a native of New York. He has been in the pay corps since June, 1902, prior to which time he served as an enlisted man.

COALMAN CHILDREN ARRIVE

The Justice Surprises Them Aboard Ship as the Seven are Eating Ice Cream.

Justice Colahan went down to greet his seven children on the White Star liner Cedric and they did not know he was coming. He looked all around for them and finally found them all eating ice cream in the saloon. When they caught sight of him they rushed in a tumultuous bevy at him, all trying to hug him at once. There was some crying, not confined by any means to the family party, and then they made the Justice sit down with them and eat ice cream.

The children are in mourning for their mother and when she died they were sent over to their grandmother in Ireland. They had lots of stories to tell of jaunting cars and donkey rides and blarney stones and folkloric songs and fables and the Justice was kept aboard the ship until long after she docked.

Everybody liked the youngsters in Ireland, maybe because they have such a queer assortment of Irish names—Aileen, Kathleen, Conn, Donal, Patrick, Dermot and Florence.

Other passengers by the Cedric were James Wilfred Holt, secretary of the New York Association for the Blind, who when asked if the institutions for the blind on the other side were better than ours, remarked: "All the blind are looking to America"; Lord and Lady Algernon Gordon-Lennox, Gen. John Gill and George J. Peet.

MATCHES WENT OFF IN POCKET

Ex-Policeman, Badly Burned by Odd Accident, May Die.

George Bates, 43 years old, of 1714 St. John's place, Brooklyn, a former policeman, was burned so badly yesterday when a box of matches in a pocket of his trousers took fire that the doctors at St. Mary's Hospital say his condition is critical. Bates fainted from pain, and before his father and Policeman William Tomford of the Brownsville station could tear off his blazing clothing he had been severely burned about the body and legs.

MOVE TO UNSEAT LAURIER

Contest Started of Canadian Ex-Premier's Election in Soulanges.

OTTAWA, Nov. 3.—A protest was filed here to-day with the Clerk of the Crown in Chancery against the election of Sir Wilfrid Laurier in the Soulanges constituency. Sir Wilfrid was elected in Soulanges and in Quebec East and he must elect to sit for one of these constituencies.

It has been assumed that he would elect to sit for Soulanges, thus leaving Quebec East open for the Hon. George P. Graham, his Minister of Railways, who was defeated in September. If Sir Wilfrid now elects to sit for Soulanges he must take the chance of being unseated in a contest.

The protest is made by a Montreal merchant. Under the Dominion elections act it is possible to unseat almost any member if the contest is carried on in earnest.

HONOR FOR THE WAVY GIRL

Miss Martus to Receive a Cup for Saving Boatload of Young People.

SAVANNAH, Ga., Nov. 3.—The presentation of a gold lined loving cup next Thursday evening to Miss Annie Martus, known to seafaring people as the Waving Girl because of her habit of signalling to passing vessels from her home at Tybee light, will be the culmination of another romance in the life of Miss Martus, who recently won fame through her unassisted rescue of eight men from a sinking pontoon when a dredge burned in the Savannah River.

This time Miss Martus and her brother were instrumental in saving a dozen young persons from death in the river.

PREMIER PAINTED RED

Senor Canalejas Has a Provoking Mischap Walking in Madrid.

Special Cable Despatch to THE SUN. MADRID, Nov. 3.—Prime Minister Canalejas while walking past a shop which was being redecorated received the contents of a pot of red paint upon his head.

The painter, who had fallen, was not badly hurt, but the Premier's hat and clothes were covered with paint and his eyeglasses were broken.

UNWRITTEN LAW SPLITS JURY

Court Orders Mistrial in Case of Woman Who Killed Young Neighbor.

OPPELOUS, La., Nov. 3.—When the jury in the case of Mrs. Zee Rong McRee, charged with the murder of Allan Garland, came into court this morning and again reported inability to agree the court discharged them and ordered a mistrial entered. The jury spent twenty-four hours in deliberation. It is understood they stood eight for conviction and four for acquittal. One man favored the death sentence and the others who wanted a conviction voted for manslaughter.

A motion for an immediate new trial will be argued to-morrow. An effort to secure bond for Mrs. McRee through habeas corpus proceedings will come up soon.

RODGERS NEARS THE PACIFIC

Hopes to Get to Los Angeles Today—Fowler Moving Eastward.

IMPERIAL JUNCTION, Cal., Nov. 3.—Aviator Rodgers descended here at 11 o'clock this morning after flying from Stoval Siding, nearly 100 miles, at nearly a mile a minute. He said his machine is in fine shape and hopes to be able to finish his flight to Los Angeles to-morrow.

PRINCE ABDUCTS HIS CHILD

Louis of Monaco Raids His Father's Residence in Paris.

Special Cable Despatch to THE SUN. PARIS, Nov. 3.—Prince Louis of Monaco, son of Prince Albert, married years ago a pretty girl of plebeian birth. After the birth of a girl the mother was cast off by the Prince, but Prince Albert took the child and told his son that his conduct was shocking. Also he cut down the young man's allowance.

Yesterday Louis, accompanied by two satellites in silk hats, drove up to his father's residence in Paris, forced an entrance and carried off the child despite the shrieks of the governess.

Crowds attracted by the row were told that it was all for a moving picture film.

GLASS EYES SMUGGLED

\$1,000 Worth Seized by Customs Officials in a Raid in Hoboken.

Customs officers from Surveyor Henry's office raided yesterday a place in Hoboken and seized about \$1,000 worth of smuggled glass eyes imported from Germany. They also arrested two men, who were taken before United States Commissioner Russ in Hoboken and remanded for examination. It is said the information against the glass eye smugglers was given by employees of one of the German steamship lines that dock in Hoboken. The eyes were sold to oculists who, not having any duty to pay, could resell them at figures below those of their competitors.

WANTED WILLETT TO GET OFF

KETCHAM AND CALLAHAN SAID SO, BUT HE WOULDN'T.

McCooey Didn't Know That He Was Going to Be Nominated Until the Day of the Convention—Willett's Explanation to McCooey of Hurried Borrowings.

The investigation of the circumstances of William Willett's nomination as one of the Democratic candidates for the Supreme Court bench in the Second Judicial district was continued yesterday before Justice Scudder in the Supreme Court, Long Island City. Surrogate Herbert T. Ketcham and Patrick E. Callahan, candidates with Willett on the judiciary ticket, testified. Their testimony was given earnestly and at times almost vehemently. John H. McCooey, the Democratic leader in Kings county, was also a witness. He gave his testimony in an easy conversational way. Near the close of the long day's hearing, Assistant District Attorney De Ford of New York county turned to Callahan on the witness stand and asked: "Do you consider Mr. Willett a fit candidate for the office of Justice of the Supreme Court?"

"No," was Callahan's emphatic reply. "He was asked by Ketcham and me to get off the ticket, but he said that it would make him a criminal to do it. Ketcham said that it would not—if he could explain his financial transactions."

With this Callahan left the stand, ignoring Willett as he passed him. Neither Surrogate Ketcham nor McCooey gave Willett a glance during the hearing.

Justice Scudder in adjourning the hearing until this morning after Mr. De Ford's explanation that there were more witnesses to be heard said: "This must be laid open to the public. It must be probed to the bottom. The testimony must all be in by to-morrow, leaving Monday free. I will not sit on Monday, for something might come up at that time suddenly to influence the mind of the public. I want to allow a reasonable time in which to give the public an opportunity to digest what is brought out here before election day. I'll sit all summer if it's necessary to finish this. If Mr. Willett wants to testify he can do so now."

Col. Bacon, counsel for Willett, said nothing. After adjournment he said he supposed his client would testify.

McCooey said in his testimony that the Queens organization had clamored for some representation on the Supreme Court bench. Cassidy had come to him three days before the convention, when the leaders of the five counties had been summoned for a conference on the basis of population that Queens ought to get one of the places. McCooey had at first held out against him. On the same basis, he had said, Kings deserved ten places at least.

"Finally I said I'd urge before the leaders that Queens get one of the places because I wanted to avoid the clash that happened in the convention of a year ago," McCooey testified. "I asked Cassidy who they'd nominate and he said that it was uncertain, naming Noble, Humphrey and Willett as very popular and saying that he supposed I was for Story, which I was."

Not until he met a man on the street on the way to the convention, said Mr. McCooey, did he learn that Willett was the Queens selection. Borough President Connolly of Queens had called him up on the telephone and asked who the candidates were to be.

"We've made up our minds on the Kings ticket, but I don't know positively about Queens," McCooey replied.

"Well it's within an hour of the convention and you'd better find out," Connolly said.

"A man named Hendrickson, who seemed excited, came out of the convention and spoke to me deprecatingly of the selection Queens had made. I was not in the convention," said McCooey in testifying.

McCooey then gave his version of the conferences of Willett, Ketcham, Callahan and himself regarding the action brought against William Berri for criminal libel and the subsequent withdrawal of the charge by the candidates and their apology to Berri.

"From the start of the affair," he said, "I was opposed to a criminal action and advised that it would be better policy to get redress by a civil suit. I felt that the article published did not contain charges sufficient to warrant a criminal libel action. I deprecated going on with the suit at the first adjourned hearing. I told the candidates in my office that I thought they ought to make some amicable adjustment of it, a withdrawal or a compromise."

McCooey expressed indignation at their first private meeting in regard to the Standard Union editorial.

"Did Mr. Willett show the same indignation?" asked Mr. De Ford.

"Oh, yes," McCooey replied; and he added that it was not until six days after the publication of the article, and after several conferences with all three candidates, that Willett told of drawing the \$10,000 from the bank. "At first," the witness said, "Willett seemed to want to go on with the suit, but I said that the day of his drawing that money on the day of the convention was sufficient in my judgment from a political standpoint to warrant my withdrawing the criminal libel charge. From the way he acted I considered that he had no serious objections after that to withdrawing. He told me that he had drawn the money as he might need some in the campaign to 'mail' the district, which, he said, was quite expensive and might cost \$5,000 or \$10,000. I said it was a very indiscreet thing to do."

"Were you convinced that the money was not drawn for mailing purposes or that the public wouldn't believe it was?" asked Mr. De Ford.

"I wouldn't say what I believed he had drawn the money for," replied McCooey. In speaking of the candidates' letter of withdrawal of the libel action McCooey said that he had advised the candidates signing it in order to get the whole matter out of the courts and out of the newspapers, so that they could go on with the

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